

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/CA2004/000960	International filing date (day/month/year) 28.06.2004	Priority date (day/month/year) 14.07.2003
International Patent Classification (IPC) or both national classification and IPC A61M39/14		
Applicant B & D RESEARCH AND DEVELOPMENT INC.		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Schönleben, J Telephone No. +31 70 340-2436
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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II Priority

1. The following document has not been furnished:

- copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4,5,7,9-12,16
	No: Claims	1-3,6,8,13-15,17-24
Inventive step (IS)	Yes: Claims	
	No: Claims	1-24
Industrial applicability (IA)	Yes: Claims	1-24
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

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Re Item V.

- 1 The following documents are referred to in this communication:
 - D1: US-A-4 334 551 (PFISTER ROBERT D) 15 June 1982 (1982-06-15)
 - D2: US-A-4 610 469 (WOLFF-MOOIJ MARCELLE N) 9 September 1986 (1986-09-09)
 - D3: WO 02/087682 A (STORZ KARL GMBH & CO KG ; STORM GERALD (DE); STREIFINGER WOLFGANG (DE)) 7 November 2002 (2002-11-07)
 - D4: US-A-5 957 898 (BINDOKAS ALGIRDAS J ET AL) 28 September 1999 (1999-09-28)

2 INDEPENDENT CLAIMS 1, 17, 22

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 17 and 22 are not new in the sense of Article 33(2) PCT.

Document D1 discloses (see col. 3, line 37 to col. 6, line 41, and figures 1a-1c; the references in parenthesis applying to this document) a coupling device for coupling a patient-side medical line 20 to an equipment-side medical line 34, said coupling device comprising a first part 12 adapted to be coupled to a first medical line 20, said first part 12 having a first passage 17, 21 therethrough to provide fluid communication with said first medical line 20, said first part 12 including a first seal 26 having a sealed position (fig. 1b) and an unsealed position (fig. 1c), wherein said first seal 26 seals said first medical line 20 when in said sealed position; and a second part 11 adapted to be coupled to a second medical line 34, said second part 11 having a second passage 32 therethrough to provide fluid communication with said second medical line 34, said second part 11 including a second seal 46 having a sealed position and an unsealed position, wherein said second seal 46 seals said second medical line 34 when in said sealed position, wherein said parts 11, 12 include a connector 13, 14 detachably connecting said first part to said second part in a longitudinal direction, wherein said connector 13, 14 detaches said first and second parts 11, 12 in response to a predetermined force in said longitudinal direction, and wherein each of said seals 26, 46 moves from said sealed position to said unsealed position when said first part is detachably connected to said second part (fig. 1c).

As such, document D1 discloses all the features of claim 1 so that its subject-matter is not new in view of this document.

- 2.2 Another document disclosing all the features of claim 1 is document D2, see col. 4, line 32 to col. 6, line 22, and figures 1-3, so that claim 1 is also not new in view of this document.

- 2.3 Since the subject-matter of independent claim 17 corresponds to the subject matter of claim 1 (see also item VIII, below), the same reasoning as given for claim 1 applies mutatis mutandis.

Therefore claim 17 also does not meet the requirements of the PCT in respect of novelty (Article 33(2)PCT).

- 2.4 Claim 22 is only related to the first part of the coupling device of claim 1. As such, the same reasoning as given for claim 1 also applies mutatis mutandis for claim 22.

Therefore claim 22 also does not meet the requirements of the PCT in respect of novelty (Article 33(2)PCT).

3 DEPENDENT CLAIMS 2-16, 18-21, 23 and 24

Dependent claims 2-16, 18-21, 23 and 24 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), see the documents and their relevant passages cited in the search report. Claims 4, 5 and 7 to which no documents are cited are considered as comprising obvious matter only.

Re Item VIII.

Although claims 1 and 17 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other

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only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

Claims 18 to 21 are related to claim 14 whereas it seems that they should be related to claim 17.

In claim 22 it is not clear what is meant by the wording "each of said seals moves" since there is only one seal specified: "the first body including a first seal". If also a seal of the second adapter is meant then the first adapter would be specified by its relationship to a second adapter which is not part of the claimed subject-matter.

In claims 1, 17 and 22 some of the features relate to a method of using the apparatus rather (the connector detaches said first and second parts in response to a predetermined force in said longitudinal direction) than clearly defining the apparatus in terms of its technical features. The intended limitations are therefore not clear from this claim, contrary to the requirements of Article 6 PCT.